

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 13, 1991

ALL COUNTY LETTER NO. 91-95

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: SETTLEMENT OF WRL vs McMAHON COURT CASE - IMMEDIATE
NEED AND BEGINNING DATE OF AID - QUESTIONS AND ANSWERS

REFERENCE: ACL 81-58, ACL 82-15, ACIN I-53-84, ACL 84-15, ACIN
I-78-87, ACIN I-40-88, ACL 88-57, ACL 88-105, ACWD
dated 10-19-90, ACL 90-103

The purpose of this letter is to provide answers to questions posed by County Welfare Department (CWD) staff during implementation of the settlement of the WRL vs McMAHON court case.

The State Department of Social Services (SDSS) would like to thank the CWD representatives who asked the questions. These include members of the CWDA Eligibility and Grant Committee, the Northern Counties Corrective Action Group, the Mother Lode Counties Corrective Action Group, the Southern Counties Work Group and many individual CWD program personnel.

If you have any questions or need further information regarding the regulations or implementation in general, please contact Jim Lucas of the Welfare Policy Implementation Bureau (WPIB) at (916) 324-2725 or ATSS 454-2725. Questions regarding forms issues should be directed to LeAnne Torres of WPIB at (916) 324-2016 or ATSS 454-2016. Concerns relating to the Notices of Action or the AFDC NOA Handbook process can be addressed by John Honeycutt of WPIB at (916) 445-1131 or ATSS 485-1131. Information on statistical reporting requirements can be obtained from Levy St. Mary of the Statistical Services Bureau at (916) 445-2135 or ATSS 485-2135. Questions regarding the retroactive portion of the consent decree should be directed to Vincent Toolan of the AFDC Policy Bureau at (916) 324-2007 or ATSS 454-2007.


ROBERT A. HOREL
Deputy Director

Attachment

cc: CWDA

WRL QUESTIONS AND ANSWERS

IMMEDIATE NEED

Court Order

1. Can CWDs charge plaintiffs or DSS for the costs involved in copying and forwarding implementation material to plaintiff's counsel?

Answer: CWDs should claim the cost as an administrative cost.

Denial of AFDC and Immediate Need (IN) Concurrently

2. MPP 40-129.532 provides that "(t)he AFDC eligibility determination process shall continue unless the family fails to meet financial eligibility or deprivation standards, in which case the AFDC and the request for an Immediate Need payment may be denied concurrently.". What about a Filing Unit that is ineligible to AFDC for reasons other than lack of deprivation or financial ineligibility?

Answer: The regulatory language is intended to delay the eligibility determination for applicants who have requested an IN payment and who are ineligible to cash aid for reasons other than lack of deprivation or financial eligibility until after the expiration of the Immediate Need timeframe. Therefore, the AFDC denial action for reasons other than lack of deprivation or financial eligibility may not take place during the IN timeframe.

Emergency Situation

3. What is the definition of "available income" in relation to the income and resource test for an eviction emergency?

Answer: "Available income" is income that was received between the first of the month and the end of the IN timeframe and can be used to meet the cost of the eviction emergency within the IN timeframe.

4. A Filing Unit (SFU) receives an IN payment of \$200 (the maximum allowed during an application period). Subsequently, the applicant reports an eviction emergency. The SFU is eligible for an IN payment except that the maximum IN amount has already been paid. Is the CWD required to offer an Expedited Determination of Eligibility (EDE)?

Answer: Yes. If the SFU meets the conditions of MPP 40-129.71, the CWD must offer an EDE. In this case, the SFU meets the conditions even though there is no eligibility for an IN payment.

5. What is the definition of a utility shutoff notice as described in MPP 40-129.134? Does a shutoff of telephone service qualify?

Answer: A utility shutoff notice is any type of notification to the applicant that utilities will be shut off.

A utility shutoff includes a shutoff of telephone service.

Expedited Determination of Eligibility

6. What does the phrase "...within three working days from the date of the [IN] request." as used in MPP 40-129.74 mean in terms of the count of days?

Answer: The day following the request is day #1. This is an expression of the general rule regarding the counting of days in the IN regulations.

7. Isn't the CWD required to do an EDE whenever an IN payment has been issued?

Answer: No. The EDE must be done when the SFU is:

- o Eligible to an IN payment due to an eviction emergency; and
- o The applicant chooses an EDE.

After making an IN payment, the CWD must complete the eligibility determination process for regular AFDC within 15 working days as outlined in MPP 40-129.91.

8. MPP 40-129.74 has been revised to read "(t)he expedited eligibility determination shall be completed and payment issued within three working days from the date of the Immediate Need payment request.". How does this revision affect the CWD's decision on whether the CWD is required to issue an IN payment by the end of the three-day EDE timeframe?

Answer: All-County Letter 90-103 (ATTACHMENT 2, Page 2) instructed CWDs to issue an IN payment by the end of the EDE timeframe when the CWD could not complete the eligibility determination for regular AFDC within the timeframe.

The revision of MPP 40-129.74 changes this interpretation. Now, the CWD must make an IN payment by the end of the EDE timeframe unless the CWD has "issued" the EDE payment. For purposes of the EDE payment, "issued" means:

- o The CWD has made the regular AFDC payment available for hand-delivery by the end of the EDE timeframe; or
- o The CWD has placed the regular AFDC payment in the mail by the end of the EDE timeframe.

Notices of Action

9. If IN is approved for only part of the SFU (such as when a SFU member has not yet met technical conditions), what action must the CWD take with regard to the ineligible persons?

Answer: The requests for persons not included in the IN payment are considered to be "pending" and should not be denied until conditions for denial of AFDC exist as outlined in MPP 40-171.221. Since only an IN payment has been made, and no action has yet been taken for purposes of regular AFDC, no "pending" NOA for the unaided persons is needed.

10. The CWD approves IN for part of a SFU because some persons have not completed technical conditions. Because these persons were not included, the amount of the IN payment was under \$200. If the persons complete the technical conditions, can further IN be paid up to the maximum of \$200 for the application period?

Answer: Yes, provided that there is a new request for IN (i.e., a CA 4) and the SFU is eligible to a second IN payment as specified in MPP 40-129.24. However, this section does not permit a second IN payment in the same month as the first payment.

In situations in which all eligibility conditions have been met, the CWD should instead issue the AFDC payment.

For purposes of completing the statistical report TEMP 1750, the new request for IN is separate from the initial request and any resulting CWD action is a new action.

Recipients of Out-of-state AFDC

11. One of the persons required to be in the SFU is presently aided from another state. The SFU is otherwise eligible for an IN payment based on an eviction emergency. Can such a SFU receive an IN payment?

Answer: Yes. Although MPP 40-129.534(g) provides that recipients of AFDC are not eligible to IN, applicants who are aided from other states are treated in every way as applicants in California. The AFDC payment from the other state is treated as income.

This represents a change. Formerly, recipients of AFDC from another state were considered to be aided persons and thus ineligible for an IN payment under the pre-WRL MPP 40-129.22.

BEGINNING DATE OF AID

Incapacitated Parent

12. An application for AFDC-FG is made based on deprivation of an incapacitated parent. The parent lacks verification of incapacity. Is this verification a technical condition?

Answer: No. Verification of incapacity is not a technical condition. Instead, this verification establishes a condition existing as of a point in time.

Intra-Program Status Change (IPSC) from Medically Needy (MN) to AFDC-FG or AFDC-U

13. MPP 44-317.611 shows that, for cases transferring from MN to AFDC cash grant status, "(t)he cash grant shall be paid from the date all eligibility requirements are met.". Is an application required for these cases? If so, does this section mean that the beginning date of aid (BDOA) for these cases can precede the date of application?

Answer: MPP 40-183.32 provides that an application for AFDC or a request for restoration is needed to transfer from MN to AFDC. The BDOA for these actions cannot precede the date of such application or request.

Notice of Action

14. If regular AFDC is approved for only part of the SFU (such as when a member has not yet met technical conditions), what action must the CWD take with regard to the ineligible persons?

Answer: It depends on the the persons' eligibility:

- o If the conditions for denial of AFDC have been met as outlined in MPP 40-171.221, the application for the person(s) should be denied.
- o If neither eligibility nor ineligibility has been established (such as when technical conditions have not been met), the requests for persons not included in the IN payment are considered to be "pending" and should not be denied until conditions for denial of cash aid exist. However, since a regular cash aid payment has been made, a NOA showing this "pending" status must be issued.

Pregnancy Special Need (PSN)

15. All-County Letter 90-103 (ATTACHMENT 3, Page 2), references the relationship between the date medical verification of pregnancy is provided and the determination of the BDOA for Pregnant Woman Only (PWO) cases. Is this interpretation intended to apply to all situations in which the PSN has been authorized or just the BDOA for new PWO cases? Also, the revised MPP 44-211.611 deals with the PSN in State-only cases.

Answer: The reference in ACL 90-103 dealt with applicant cases. The material on PSNs in the final WRL regulations addresses payment of all PSNs, not just the PSN in state-only cases.

This represents a change. Previously, CWDs were instructed to pay the PSN in a recipient AU from the month in which the pregnancy verification was dated.

16. What does the phrase "state-only eligibility timeframe" mean in MPP 44-211.642?

Answer: This phrase refers to the length of time that a pregnant woman without an eligible child (i.e., a PWO case) would be eligible to receive the PSN in a State-only case.

Technical Conditions

17. Persons who do not complete technical conditions are not eligible to receive an IN payment or regular AFDC. However, since the CWD must take action within the IN timeframe, the CWD may approve regular AFDC for some members of the SFU while putting others in "pending" status. What should the CWD do with the applications for these persons after the regular AFDC approval?

Answer: The CWD must continue to process the applications for such "pending" persons. No new statement of facts form is required. The CWD must give such persons a reasonable chance to complete the technical conditions, using existing CWD standards (i.e., if the CWD usually gives clients 10 working days to comply, give these persons at least 10 working days to comply).

18. MPP 44-206 gives a number of situations in which persons are ineligible. Several of these situations seem related to technical conditions. How do these situations affect the BDOA?

Answer: Technical conditions met before the date of authorization do not affect the BDOA. However, the concept of "technical conditions" is not intended to allow ineligible persons to be aided. Persons described in MPP 44-206 are ineligible.

The ineligibility of such persons can be shown by either a denial or discontinuance NOA or by documentation in the case record. Where the ineligibility can be "cured", there can be eligibility after the "cure". However, the BDOA cannot precede the date of such a "cure".

19. Some CWDs use a system for SSN applications in which the SSN application form is completed by the applicant at the CWD and the CWD mails it directly to the Social Security Administration (SSA). Would use of such a system be considered to meet the technical condition of SSN enumeration when an applicant must apply for an SSN?

Answer: Yes. However, some local SSA offices will not accept mail-in applications for SSNs. Otherwise, such a system meets the SSN enumeration requirement, provided that the case record contains documentation showing both:

- o The person for whom SSN application was made, and
- o The date the SSN application form was mailed to SSA.

20. Currently, MPP 40-105.26 requires that an application for an SSN be made for a newborn no later than the end of the month following the month in which the mother is released from the hospital. MPP 44-317.112 shows that all technical conditions must be met before the CWD authorizes aid. The same regulation shows that SSN enumeration is a technical condition. Can the CWD add the newborn to the AU before the SSN requirement is met?

Answer: The newborn is to be added to the AU in accordance with MPP 44-317.221. MPP 40-105.26 provides the timeframe during which application for an SSN for the newborn must be made. If the parent or caretaker relative refuses to furnish or cooperate in securing an SSN, then the child would be excluded as provided in MPP 44-206.1(b).

21. What is considered to be proof of application for unconditionally available income?

Answer: Verification in writing or a collateral contact that shows that the applicant or recipient has applied for the income.

22. Is State Disability Insurance (SDI or DIB) considered to be "unconditionally available income"?

Answer: Yes.